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Oil And Gas Conservation

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Exhibit "A"

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS

The Attorney General has prepared a title and summary of the chief purposes and points of the proposed measure, as follows:

OIL AND GAS CONSERVATION. INITIATIVE. Prohibits waste, defined as production methods which reduce maximum economic quantity of oil or gas ultimately recoverable by good engineering practices. Provides for unit operation of pools to increase ultimate recovery on agreement of lessors and lessees of three-fourths of pool. Creates California Oil and Gas Conservation Commission to prevent waste by any necessary or proper orders, including orders limiting production but only to extent necessary to prevent waste. Provides for well spacing. Provides for pooling of spacing units in new pools. Provides Commission's orders shall protect correlative rights. Provides for enforcement and administration.

STATE OF CALIFORNIA, }
COUNTY (or City and County) of..... } ss.

To the Honorable Secretary of the State of California:

We, the undersigned, registered, qualified electors of the State of California, residents of..... County (or City and County) present to the Secretary of State this petition proposing a law to be known and cited as the Oil and Gas Conservation Act, which law would amend and repeal specific sections of the Public Resources Code, and petition that the same be submitted to the electors of the State of California for their adoption or rejection at the next succeeding general election or as provided by law. The following is a full and correct copy of the title and text of the proposed measure:

AN ACT providing for conservation in the production of oil and gas; defining and prohibiting waste; providing for well spacing; authorizing agreements for unit operation, agreements for waste prevention, and agreements for cooperative operation; creating the California Oil and Gas Conservation Commission and defining its powers and duties; providing for the enforcement of this Act and the rules, regulations and orders of the Commission; providing for punishments and penalties and for oaths, subpoenas, actions, reviews and appeals; providing for the cost of administering this Act; and providing for the amendment and repeal of specific sections of the Public Resources Code.

The people of the State of California do enact as follows:

DECLARATION OF INTENT. It is hereby declared to be the intent of this Act to encourage and promote conservation in the production of oil and gas in the State of California; to protect the public interest against waste in the production of oil and gas; and to encourage production practices designed to increase the ultimate recovery of oil and gas.

SECTION 1. WASTE PROHIBITED. Waste of oil and gas is hereby prohibited.

SECTION 2. DEFINITIONS. As used in the Act, unless the context otherwise requires:

A. "Commission" shall mean the California Oil and Gas Conservation Commission.

B. "Oil" shall mean and include crude petroleum and other hydrocarbons, regardless of gravity, which are normally produced at the wellhead as liquids, and shall not include those hydrocarbons which are normally produced at the wellhead as vapors or gases.

C. "Gas" shall mean and include all natural gas and all hydrocarbons produced at the wellhead not defined herein as oil.

D. "Person" means and includes any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any department, agency or instrumentality of the State, or of any municipality, or any governmental subdivision whatsoever. The masculine gender, in referring to a person, includes the feminine and the neuter genders.

E. "Pool" shall mean an underground reservoir containing, or appearing at the time of determination to contain, a common accumulation of oil or gas.

F. "Field" means the general surface area underlaid by one or more pools.

G. "Maximum Efficient Rate" shall mean the highest rate of production of oil expressed in barrels of oil per day, or production of gas expressed in thousand cubic feet per day which can be sustained from a pool or well with the then existing facilities for a reasonable period without waste.

H. When used between the words "oil" and "gas", the word "and" includes the word "or" and the word "or" includes the word "and".

I. The use of the plural includes the singular, and the use of the singular includes the plural.

J. "Waste" shall mean the inefficient, excessive, or improper use of, or unnecessary dissipation of, reservoir energy; the unnecessary escape of natural gas into the atmosphere; or the locating, spacing, drilling, completing, equipping, operating or producing of any oil or gas well in a manner which causes, or tends to cause, reduction in the maximum economic quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations conducted in accordance with good oil field engineering practices.

K. "Unit Agreement" shall mean and include in addition to the unit agreement, any unit operating agreement, consent agreement and other agreement entered into in connection with and supplemental to such unit agreement, but shall not include any preliminary agreement confined to effectuating any exchange of interests in tracts of land which the parties to such preliminary agreement may desire.

L. "Unit Operator" shall mean the person or persons designated by the unit agreement as operator or operators of the unitized area.

M. "Working Interest" shall mean an interest held in lands by virtue of fee title, a lease, operating agreement, or otherwise, under which the owner of such interest has the right to drill for, develop and produce oil and gas. A working interest shall be deemed vested in the owner thereof even though his right to drill or produce may be delegated to an operator under a unit agreement, or other type of operating agreement.

N. "Committed Tract" or words of similar import shall mean a tract of land which is subject to a unit agreement pursuant to the consent of the owners of all the working interests in such tract, or pursuant to an order of the Commission.

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O. "Deserted Well" means any well which has not been properly abandoned and from which substantially all operable machinery has been removed for a period of more than six months without the approval of the Commission to suspend operations.

SECTION 3. THE COMMISSION.

A. There is hereby created the California Oil and Gas Conservation Commission, to be composed of three members. As the Commission is first constituted, one member shall be the person who may be on the day before this Act takes effect the State Oil and Gas Supervisor, to hold office for an original term of four years and to be Chairman of the Commission during such term; another member shall be the person who may be on the day before this Act takes effect the Chief Deputy State Oil and Gas Supervisor, to hold office for an original term of three years; and the third member shall be appointed by the Governor immediately after this Act takes effect, to hold office for an original term of two years. At the expiration of the term for which each of these original appointments is made, each successor member shall be appointed by the Governor for a term of four years; and, in the event of a vacancy, the Governor shall by appointment fill such vacancy for the remainder of the unexpired term. Each member shall be eligible for reappointment at the discretion of the Governor. Each member of the Commission shall be a resident of the State of California and shall be a qualified voter therein. At least one member shall be a person with not less than ten years' practical experience in the production of oil or a petroleum engineer with not less than ten years' experience in the practice of such profession. Each member shall qualify by taking an oath of office and shall hold office until his successor is appointed and qualified. Appointments to the Commission by the Governor shall be subject to confirmation by the Senate; provided, however, that interim appointments may be made. After the expiration of the original term of the first Chairman, the members shall elect their Chairman by majority vote. The Commission shall meet or hold hearings at such times and places as may be found by the Commission to be necessary to carry out its duties. Two members of the Commission shall constitute a quorum for all purposes. Two affirmative votes shall be necessary for the adoption or promulgation of any rule, regulation or order of the Commission. Each member shall receive as compensation for his services the sum of \$18,000.00 per annum. The Legislature may not reduce, but may increase such compensation from time to time in its discretion. The Commission shall appoint two Deputy Commissioners and a Secretary, and adopt a seal, and such seal affixed to any paper signed by the Secretary of the Commission shall be prima facie evidence of the due execution thereof. At least one Deputy Commissioner shall be a person with not less than ten years' practical experience in the production of oil, or a petroleum engineer with not less than ten years' experience in the practice of such profession. Any member or Secretary of the Commission shall have power to administer oaths to witnesses in any hearing, investigation or proceeding contemplated by this Act.

B. The Commission shall employ persons necessary to assist the Commission in the discharge of its duties, and, in so doing, shall reemploy without a break in service the employees of the former Division of Oil and Gas in the Department of Natural Resources.

C. The Attorney General of the State of California shall be the attorney for the Commission; provided, however, that the Commission may, in cases of emergency or in special cases, from any funds available to it, retain additional counsel to assist the Attorney General. The cost of all such legal services shall be a charge against and shall be paid from the Oil and Gas Conservation Fund hereinafter created, and all money so paid for the services of the Attorney General shall be deposited in the State Treasury to the credit of and in augmentation of the current appropriation for the support of the Attorney General's office, to be expended in accordance with law, for the support of that office.

D. All real property, leases, equipment, records, and all other property of every kind or nature which belongs to the former Division of Oil and Gas in the Department of Natural Resources shall henceforth belong to and be the property of the Commission.

SECTION 4. AUTHORITY OF THE COMMISSION.

A. This Act shall apply to all lands in the State of California lawfully subject to the State's police powers, including any lands owned or administered by the State or by any county, city, municipality or other governmental agency; provided, however, that any person having an interest in lands owned by or subject to the jurisdiction of the United States, or included within a unit agreement over which any officer of the United States has jurisdiction, shall be entitled, without committing any violation of this Act, to comply with any laws, orders, rules or regulations of any officer of the United States having jurisdiction over such lands; and provided further, no lands owned by or subject to the jurisdiction of the United States shall be included within any unit agreement authorized hereby without the consent of the officer of the United States having jurisdiction.

B. The Commission has authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is threatened.

C. The Commission has authority:

(1) To require: (a) identification of ownership of oil or gas wells, producing leases, tanks, plants and structures; (b) the filing of notices before the commencement of any type of drilling, deepening, plugging or abandonment operations upon a proposed or existing oil or gas well, the making of a water shut-off test, or permanently altering in any manner the casing of any well, all in such form as the Commission may prescribe; (c) the making and filing of well logs (excluding electric logs and directional surveys), core records and the history of and reports on well drilling and production which are customarily made in the industry; provided, however, the Commission, upon the application of a working interest owner or operator, shall determine and designate what wells are prospect wells, and the Commission shall not require the filing of any such logs, records or reports with respect to prospect wells until six months after their completion or the suspension of drilling operations with respect thereto; and (d) the designation by each working interest owner or operator of any well of an agent upon whom all orders and notices may be served, which agent shall reside in the county where the well is located.

(2) To regulate: (a) the drilling, redrilling, deepening, casing, operating, plugging and abandoning of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the detrimental intrusion of water into an oil or gas stratum that is avoidable by proper operations, the pollution of fresh water supplies by oil, gas, salt water or other detrimental substances, and to prevent blowouts, cavings, seepages, explosions and fires; and (b) the disposal of salt water and oil field waste.

(3) To require: (a) the furnishing of a reasonable bond, with good and sufficient surety, conditioned upon the performance of the actions specified in Subdivision (2) immediately preceding in accordance with the Commission's regulations; and (b) that every person who produces oil or gas in this State shall keep and maintain within this State for a period of five years complete and accurate records of the quantities of his oil and gas production, which records shall be available for examination by the Commission or its agents at all reasonable times.

(4) To inspect any drilling, producing, reworking, remedial or abandonment operations.

(5) To classify pools as oil pools or gas pools, and to classify wells as oil wells or gas wells for purposes material to the enforcement or interpretation of this Act.

(6) Where necessary to a determination of whether waste is occurring, to require the furnishing of any electric

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logs, subsurface pressure or other surveys which have been made with respect to any well. If it appears by clear and convincing evidence that waste is occurring, the Commission may require the making and filing of subsurface pressure surveys, directional surveys, or other information with respect to any well when relevant to a determination of the proper measures to be taken with regard to such waste.

(7) In the exercise of its authority regarding well spacing pursuant to Section 5 of this Act, to require evidence satisfactory to the Commission that a well has not deviated from the vertical more than is permissible under standards at the time being followed in the industry, or, if the well is intentionally drilled directionally, to require the making and filing of a completely oriented directional survey.

D. Every working interest owner producing oil or gas in this State shall file or cause the operator of the property to file with the Commission a statement not later than fifteen (15) days after the end of each month in such form as the Commission may designate, showing the amount of oil and gas produced from each well during the preceding calendar month, together with the gravity of the oil, the amount of water produced from each well, estimated in accordance with methods commonly used for such determinations, and the number of days during which fluid was produced from each well; the number of wells drilling, producing, or idle, owned or operated by such person; what disposition was made of the gas produced from each well, including the names of persons, if any, to whom the gas was delivered, and such other information regarding the gas and the disposition thereof as the Commission may require. Every person injecting gas into any pool shall file with the Commission a statement in such form as the Commission may designate, showing the amount of gas injected during the preceding month. Every person injecting water into a pool or into the aquifer of a pool shall file with the Commission a statement in such form as the Commission may designate, showing the amount of water injected during the preceding month. From information so reported the Commission shall publish monthly statistics showing the amount of oil, gas and water produced in the State and showing the amount of gas and water injected in the State, compiled by pools and fields, either oil or gas or both, and separately stated as to operators, together with the number of wells drilling, number of wells producing, number of wells used for gas injection, number of wells used for water injection, and number of wells idle, all separately stated as to pools and fields, either oil or gas or both, and separately stated as to operators. The Commission may publish any publications, reports, maps, or other printed matter relating to oil and gas based upon the information furnished pursuant to this Subsection D. If these publications, reports, maps, or other printed matter are sold, they shall be sold at cost and the proceeds shall be deposited to the credit of the Oil and Gas Conservation Fund.

E. All logs, surveys, reports and other data furnished the Commission by any person pursuant to this Act shall be kept confidential except for such use of the information furnished pursuant to Subsection D of this Section 4 as may be necessary to enable the Commission to issue publications as contemplated by said Subsection D; provided, however, all such logs, surveys, reports and other data shall be made available for such use as may be necessary in hearings or proceedings provided for in this Act, but their confidential character shall be protected in so far as the due enforcement of this Act will permit. The Commission shall release any logs, surveys, reports or other data pursuant to the written consent of the person filing the same, and if any such logs, surveys, reports or other data relate to abandoned or deserted wells and were filed by a person who, after a reasonable effort, can no longer be located in California, then the Commission may release the same and permit the same to be copied by any person.

F. (1) The Commission has authority to prevent waste in any pool and to make any order which may be necessary or proper for that purpose, including orders limiting the production of oil and gas from any pool or well to the extent necessary to prevent waste and orders fixing Maximum Efficient Rates of production; provided, however, that in the exercise of the authority conferred by this Subsection F, the Commission shall protect the correlative rights of all owners, in so far as it is practicable to do so, and where necessary to protect such rights, shall allocate or distribute the allowable production among the several wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonably avoidable drainage not equalized by counter drainage, so that each property will have the opportunity to produce or to receive its just and equitable share of all production in the pool, subject to the reasonable necessities for the prevention of waste. All the working interests in a pool may enter into an agreement in writing to prevent waste in such pool, which agreement shall provide for and describe production practices to be followed in such pool in order to prevent waste, and may provide for the fixing of Maximum Efficient Rates of production for such pool and the intra-pool distribution thereof. Provided such an agreement is filed with the Commission, the Commission shall make no order pursuant to the provisions of this Subsection F respecting such pool so long as such agreement is carried out or adhered to by all the working interest owners in such pool unless the Commission finds from clear and convincing evidence that waste is occurring in such pool.

(2) Should the national defense program or essential civilian requirements at any time require production of oil and gas from any pool or pools in excess of Maximum Efficient Rates, then the Commission shall have authority to permit the increase of production from any such pool or pools to the extent necessary to meet any such emergency.

(3) The Commission shall give due regard to the fact that gas produced from oil pools is to be regulated and restricted in such a manner as will protect the reasonable use of its energy for oil production.

(4) Nothing contained in this Act shall be construed to require, permit or authorize the Commission or any court to make, enter or enforce any order, rule, regulation or judgment requiring restriction of production of any pool to an amount less than such pool can produce without waste.

SECTION 5. WELL SPACING AND POOLING OF SPACING UNITS.

It is recognized and declared that proper well spacing may prevent or assist in preventing waste or threatened waste, and that until the productive limits and other characteristics of a pool have been reasonably determined, well spacing should be as nearly uniform as possible throughout such pool. Accordingly, the Commission has the authority hereinafter in this Section 5 provided.

A. The Commission has authority to establish, after hearings, well spacing units in any pool discovered after this Act becomes effective, or in any pool discovered prior to the effective date hereof but from which no well has theretofore produced oil or gas in quantities sufficient to return drilling, completing and operating costs, plus a reasonable profit. Spacing units, when established, shall be of reasonably uniform size and shape for the entire pool or for such part thereof as has been reasonably defined, except that when found to be necessary for the prevention of waste or the protection of correlative rights, the Commission shall have authority to divide any pool into sections and to establish spacing units for each section, which units may differ in size or shape from those established in any other section of the pool. Orders establishing spacing units in a pool pursuant to this Subsection A may be modified by the Commission from time to time to include additional areas determined to be underlaid by such pool.

An order establishing spacing units for a pool shall specify the size and shape of each unit and the subsurface location of the permitted well thereon in accordance with a reasonably uniform spacing plan. Upon application and after hearing, if the Commission finds that a well drilled at the prescribed subsurface location may not produce in paying quantities, the Commission is authorized to enter an order permitting the well to be drilled at a location other than that prescribed by such spacing order.

B. The size and the shape of spacing units shall be designed to accomplish the efficient development of the pool as a whole, and the size shall not be smaller than the maximum area that can be efficiently drained by one well. After the

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productive limits and other reservoir characteristics of any pool, in which spacing units have been established pursuant to Subsection A of this Section, have been reasonably determined to the satisfaction of the Commission, further hearings shall be held with respect to the spacing units in such pool. When found necessary to effectuate the purposes of this Section, any previous order establishing spacing units in such pool may be modified by the Commission to increase the size of the spacing units in the pool or in any section thereof, or to permit the drilling of additional wells in the pool or any section thereof.

C. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of a spacing unit, then working interest owners and royalty owners thereof may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling the Commission, upon the application of any working interest owner or owner of lessors' royalty in the spacing unit, shall enter an order pooling all interests in the spacing unit for the development and operation thereof. Each such pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable. Operations incident to the drilling or operating of a well upon any portion of a spacing unit covered by a pooling order shall be deemed, for the purpose of determining compliance with lease and other contractual obligations, the conduct of such operations upon each separately owned tract in the spacing unit by the several working interest owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.

D. Each such pooling order shall make provision for the drilling, completing and operation of a well on the spacing unit, and for the payment of the reasonable cost thereof by the working interest owners in the spacing unit, plus a reasonable charge for supervision. As to a working interest owner who refuses to agree upon pooling, the order shall provide that there shall be no personal liability for drilling, completing and operating costs upon such non-consenting working interest owner, but shall contain such provisions as the Commission may determine are reasonable for the reimbursement to the drilling and operating party of such costs out of production from the spacing unit; provided, however, the interest in production of an owner who has paid his share of drilling, completing and operating costs shall not, without his consent, be charged with any such costs. In the event of any dispute as to such costs the Commission shall determine the reasonable costs. If one or more of the working interest owners shall drill and operate, or pay the expenses of drilling and operating the well for the benefit of others, then the working interest owner or owners so drilling or operating shall, upon complying with the terms of Section 9, have a lien on the share of production from the spacing unit accruing to the interest of each of the owners not paying his share in an amount equal to his proportionate share of such expenses.

E. In the exercise of authority pursuant to any provision of this Section 5, the Commission shall protect the correlative rights of all owners of interests in a pool, in so far as practicable; and where necessary, the Commission may include in its order suitable provisions to afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his just and equitable share of the oil and gas.

F. Notwithstanding the preceding provisions of this Section 5, if all the working interests in a pool enter or have entered into an agreement in writing to prevent waste in such pool, which agreement provides for and describes production practices to be followed in such pool in order to prevent waste, and if such agreement is filed with the Commission, the Commission shall make no order pursuant to the provisions of this Section 5 respecting such pool so long as such agreement is carried out or adhered to by all the working interest owners in such pool unless the Commission finds from clear and convincing evidence that waste is occurring in such pool.

G. The foregoing provisions of this Section 5 shall not apply to any pool discovered prior to the effective date of this Act from which at least one well has theretofore produced oil or gas in quantities sufficient to return drilling, completing and operating costs, plus a reasonable profit, and the provisions of Chapter 3, Division 3, of the Public Resources Code shall, unless and until changed by the Legislature, continue to apply thereto in so far as they may be applicable.

SECTION 6. UNIT OPERATION.

Tracts of land may be validly unitized to provide for the management, development and operation thereof as a unit to prevent, or to assist in preventing, waste and to increase the ultimate recovery of oil and gas, as hereinafter in this Section 6 provided.

A. An agreement for the management, development, and operation of two or more tracts in the same field or in the same producing or prospective pool as a unit without regard to separate ownerships, and for the allocation of benefits and costs on a basis set forth in such agreement, shall be valid and binding upon those who consent thereto and may be filed with the Commission for approval under Section 8 of this Act. However, unless and until the agreement qualifies for approval, and is approved, by the Commission pursuant to the provisions of Subsection B or Subsection C of this Section 6, persons who do not consent thereto shall not be bound thereby, nor shall their rights be affected thereby.

B. Any proposed agreement for unit operation which has been consented to by persons who own, of record, title to working interests which aggregate at least an undivided 75% of the total working interests in the area proposed to be unitized, and by persons who own, of record, title to the lessors' royalty interest which aggregates at least an undivided 75% of the total lessors' royalty interest in the area proposed to be unitized, may be filed with the Commission by the owner of any such working interest in conjunction with a petition requesting approval thereof. If, after a public hearing, the Commission finds:

(1) That as of the date of the filing of the petition the unit agreement or counterparts thereof had been consented to by persons owning the percentage of working and lessors' royalty interests hereinabove described; and

(2) That the productive limits of the area to be unitized as described in the proposed unit agreement have been reasonably outlined by actual drilling operations, and, based upon available information, that the area to be unitized includes substantially all of a pool or substantially all of two or more pools in the same Field; and

(3) That the unitized management and operation of the pool or pools proposed to be unitized is reasonably necessary in order to carry on pressure maintenance or pressure replenishment operations, cycling or recycling operations, gas injection operations, water flooding operations, reduction of oil viscosity operations, or any combination thereof, or any other form of joint effort calculated to increase the ultimate recovery of oil and gas from the proposed unit area; and

(4) That the value of the estimated recovery of additional oil or gas as a result of the operations referred to in Subdivision (3) hereinabove will exceed the estimated additional cost incident to conducting such operations,

And if the Commission further finds after such public hearing that the proposed unit agreement is fair and reasonable under the circumstances, and includes fair and reasonable provisions for:

(5) An allocation of the unit production among and to the separately-owned tracts in the area proposed to be unitized such as will reasonably permit persons otherwise entitled to share in or benefit by the production from such separately-owned tracts to produce or receive, in lieu thereof, their fair, equitable and reasonable share of the unit production or other benefits thereof. A separately-owned tract's fair, equitable and reasonable share of the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account, among other things, the volume of productive

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oil and gas sand, permeability, porosity, connate water content, gravity of oil, composition of gas, gas-oil ratio, reservoir pressure, reservoir temperature, position on structure with respect to (a) gas-cap expansion, (b) gravity drainage, (c) edgewater encroachment, and (d) faulting, the degree of depletion, the contribution of each tract containing all or a part of a gas-cap to recovery of oil from the unit, acreage in any case where pertinent, or so many of said factors, and such other pertinent engineering, geological, economic or operating factors as may be reasonably susceptible of determination; and

(6) Determining rates of production of oil and gas in accordance with sound and efficient oil field engineering practices designed to result in the maximum economic quantity of oil and gas ultimately recoverable from the unit area; and

(7) The basis upon which physical equipment and other facilities of the several owners within the unit area are to be taken over by the unit operator and used for unit operation, including the methods of arriving at the compensation therefor or of otherwise proportionately adjusting the investment of the several owners in the unit as of the effective date of unit operation; and

(8) The taking of possession by the unit operator of all property required for the unit operation, and providing that all property, whether real or personal, which may be acquired in the conduct of the unit operation shall be acquired for the account of the owners within the unit area and shall be the property of such owners as their interests may appear; and

(9) The charging of capital costs incurred after the effective date of unit operation and all expenses of unit operation to the separately owned tracts, which charges shall be in the same proportion that such tracts share in the unit production, together with a provision that expenses charged to a separately owned tract shall be paid by the person or persons who, in the absence of the contemplated unit operation, would be responsible for the expenses of developing and operating such separately owned tracts, and that such person's liability shall at all times be several and not joint or collective; and

(10) A practical method for the supervision of the unit operation by the working interests, which gives each such interest a vote having a value corresponding to the percentage of the unit expense chargeable to such interest; and

(11) The time the unit operation shall commence and the manner in which, and the circumstances under which, the unit operation shall terminate; and

(12) The carrying or otherwise financing of any persons who request the same and who the Commission determines are unable to meet their financial obligations in connection with the unit operation, allowing a reasonable interest charge to those who carry or finance such obligations;

Then it shall issue its order authorizing and approving unit operation of all tracts within the area to be unitized in accordance with the terms of the proposed unit agreement, requiring that all tracts within the area to be unitized be thereafter subject to the unit agreement, and that the interests of all persons in any such tract or tracts be thereafter subject to the unit agreement the same as if all such persons had expressly consented to the unit agreement.

C. Any unit agreement entered into pursuant to Subsection A of this Section, or any unit agreement which was in effect on the date this Act became effective which, in either instance, has been consented to by persons who own, of record, title to working interests which aggregate at least an undivided 75% of the working interests in the total area of the pool or pools, and by persons who own, of record, title to the lessors' royalty interest which aggregates at least an undivided 75% of the lessors' royalty interest in the total area of the pool or pools, may be filed with the Commission by the owner of any working interest in conjunction with a petition requesting an order requiring that all tracts within the pool or pools be thereafter subject to the unit agreement, and that all persons having an interest in the pool or pools be thereafter bound by the provisions thereof. If, after a public hearing, the Commission finds:

(1) That as of the date of the filing of the petition, the unit agreement or counterparts thereof had been consented to by persons owning the percentage of working and lessors' royalty interests hereinabove described; and

(2) That the unit agreement meets the requirements of Subdivisions B(2), B(3) and B(4) of this Section 6; and

(3) That such unit agreement provides for an allocation of the unit production among and to the separately-owned tracts in the area proposed to be unitized such as will reasonably permit persons otherwise entitled to share in or benefit by the production from such separately-owned tracts to produce or receive, in lieu thereof, their fair, equitable and reasonable share of the unit production or other benefits thereof, and that such agreement is fair and reasonable under all the circumstances in other material respects,

Then the Commission shall issue its order authorizing and approving unit operation of all tracts within the pool or pools in accordance with the terms of such existing unit agreement, requiring that all tracts within the pool or pools be thereafter subject to the unit agreement, and requiring that the interests of all persons in the pool or pools be thereafter subject to the unit agreement the same as if all such persons had expressly consented to the unit agreement. A separately-owned tract's fair, equitable and reasonable share of the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account, among other things, the volume of productive oil and gas sand, permeability, porosity, connate water content, gravity of oil, composition of gas, gas-oil ratio, reservoir pressure, reservoir temperature, position on structure with respect to (a) gas-cap expansion, (b) gravity drainage, (c) edgewater encroachment, and (d) faulting, the degree of depletion, the contribution of each tract containing all or a part of a gas-cap to recovery of oil from the unit, acreage in any case where pertinent, or so many of said factors, and such other pertinent engineering, geological, economic or operating factors as may be reasonably susceptible of determination; provided, however, the Commission shall not take into account any migration of oil or gas which may have occurred as a result of or incident to pressure maintenance or pressure replenishment operations, cycling or recycling operations, gas injection operations, water flooding operations or any similar operations theretofore conducted in the pool or pools.

Any order issued pursuant to the foregoing must be fair and reasonable under all the circumstances, and shall include fair and reasonable provisions for:

(a) The date when all tracts not theretofore committed to the unit shall be subject to unit operation, which date shall not be earlier than the first day of the month following the date of the Commission's order; and

(b) Determining rates of production of oil and gas in accordance with sound and efficient oil field engineering practices designed to result in the maximum economic quantity of oil and gas ultimately recoverable from the unit area; and

(c) A provision for the carrying or otherwise financing of any persons who request the same and who the Commission determines are unable to meet their financial obligations in connection with the unit operation, allowing a reasonable interest charge to those who carry or finance such obligations; and

(d) Such additional provisions which are not inconsistent with the provisions hereof and which the Commission determines to be appropriate for bringing into the unit on a fair and reasonable basis tracts and interests not theretofore committed to the unit agreement.

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The Commission may not alter or amend any existing unit agreement except that, if any such agreement contains provisions regarding the admission of other tracts into the unit which might prohibit or restrict the admission of further tracts at that time, the Commission may modify or remove any provisions prohibiting or restricting the admission of further tracts and may make such further orders with respect to any such provisions as it deems necessary to effectuate the provisions of this Act. If the Commission determines that any other amendment to the existing unit agreement is necessary in order to effectuate the purposes of this Subsection, it must deny the petition or condition its order granting the petition upon the due execution within a reasonable time of an amendment to the existing unit agreement by working interest owners sufficient to meet the percentage requirements set forth hereinabove, and if the proposed amendment affects the rights of the owners of the lessors' royalties, then also by such royalty owners as are sufficient to meet the percentage requirements set forth hereinabove. Any amendment executed pursuant to the foregoing and found by the Commission to be reasonably necessary to effectuate the provisions hereof shall be binding upon all persons having any interest in the pool or pools; provided, however, no amendment to any such existing unit agreement shall alter or change the basis for allocating production to tracts theretofore committed to the unit without the express written consent of all persons who might be adversely affected thereby.

D. In the event that at any time after the entry of an order of unitization pursuant to the provisions of Subsections B or C hereof, it develops that a pool is larger than theretofore indicated and that all or a portion of a further tract or tracts should be included within the unit area in order that the unit operations can cover the entire pool, persons who own of record any working interest in the pool may file a petition with the Commission requesting the addition of such tract or tracts to the unit area in so far as they contain the pool. Upon the filing of such a petition, the Commission shall hold a public hearing, and in the event the Commission finds:

(1) That all or a portion of a further tract or tracts do contain a portion of the pool previously ordered unitized by the Commission; and

(2) That the unit agreement or counterparts thereof have been consented to by persons who own, of record, title to working interests which aggregate at least an undivided 75% of the working interests in the total area of the pool or pools, as known to exist at the time of the filing of the petition, and by persons who own, of record, title to the lessors' royalty interest which aggregates at least an undivided 75% of the lessors' royalty interest in the total area of the pool or pools, as known to exist at the time of the filing of the petition; and

(3) That the addition of such further tract or tracts in so far as they contain the pool or pools to the unit operations is reasonably necessary in order to prevent waste or to increase the ultimate recovery of oil and gas,

Then the Commission shall issue its order that such further tract or tracts in so far as they contain the pool or pools and the interests of all persons therein shall thereafter be subject to unit operations, which order shall contain a fair basis for allocating production to such further tract or tracts and make fair and reasonable provisions under the circumstances in other respects for bringing into the unit operation such tracts; provided, however, in providing for the allocation of unit production from the enlarged unit area, the order shall first treat the unit area previously established as a single tract, and the portion of unit production so allocated thereto shall then be allocated among the separately owned tracts included in such previously established unit area in the same proportion as specified therefor in the previous order. The Commission shall allocate production from the enlarged unit area between the previously established unit area and the additional tract or tracts, and if there be more than one such additional tract, shall allocate the production allotted the additional tracts as between such additional tracts, in such a manner as will reasonably permit persons otherwise entitled to share in or benefit by the production from such tracts to produce or receive, in lieu thereof, their fair, equitable and reasonable share of the unit production or other benefits thereof. A tract's fair, equitable and reasonable share of the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account, among other things, the volume of productive oil and gas sand, permeability, porosity, connate water content, gravity of oil, composition of gas, gas-oil ratio, reservoir pressure, reservoir temperature, position on structure with respect to (a) gas-cap expansion, (b) gravity drainage, (c) edgewater encroachment, and (d) faulting, the degree of depletion, the contribution of each tract containing all or a part of a gas-cap to recovery of oil from the unit, acreage in any case where pertinent, or so many of said factors, and such other pertinent engineering, geological, economic or operating factors as may be reasonably susceptible of determination; provided, however, the Commission shall not take into account any migration of oil or gas which may have occurred as a result of or incident to pressure maintenance or pressure replenishment operations, cycling or recycling operations, gas injection operations, water flooding operations or any similar operations theretofore conducted in the pool or pools. Such order shall also contain provisions which shall be fair and reasonable under the circumstances with respect to the matters referred to in Subdivisions C(a), (b), (c), and (d) hereof, and in issuing such order, the Commission shall have the same powers and be subject to the same restrictions as are set forth in the last paragraph of Subsection C hereof.

E. The percentages of interests referred to in the first sentence of Subsection B and Subdivision (1) of such Subsection B, in the first sentence of Subsection C and in Subdivision (1) of such Subsection C, and in Subdivision (2) of Subsection D, shall be determined as follows:

(1) The area proposed to be unitized shall be measured on a horizontal plane in terms of surface acreage; and

(2) The percentage interest of each working interest owner shall be the equivalent of a fraction, the numerator of which shall be the product of the number of acres in his tract or tracts and his fraction of the working interest in such tract or tracts, respectively, and the denominator of which shall be the number of acres in the area proposed to be unitized; and

(3) The percentage interest of each lessors' royalty interest shall be the equivalent of a fraction, the numerator of which shall be the product of the number of acres in his tract or tracts and the fraction that his royalty interest in such tract or tracts, respectively, bears to the total lessors' royalty interest in such tract or tracts, respectively, and the denominator of which shall be the number of acres in the area proposed to be unitized.

In the event there are no lessors' royalties outstanding with respect to a tract or tracts of land included within or proposed to be included within a unit area, then for the purpose of determining the percentages of lessors' royalties referred to in the above mentioned portions of Subsections B, C or D of this Section 6, the working interest owners in any such tract shall be deemed to be the owners of a lessors' royalty with respect to such tract in the same proportion as their ownership of the working interest therein.

F. No unit agreement approved by the Commission pursuant hereto and no agreement for the pooling of all interests in a spacing unit shall effect or result in, or be construed to effect or result in, the alienation, transfer or change of any title or ownership, legal or equitable, of any person or party in or to any tract of land or the mineral rights therein to any other person or party. Without limiting the generality of the foregoing, any city, county, city and county, or any other public or quasi-public corporation, body or agency to which the State of California has granted any tide, submerged or other lands, is hereby empowered to become a party to or otherwise become bound by, and commit its interest in any such lands to, such a unit agreement or agreement for the pooling of all interests in a spacing unit; and any such city or county or other public body or agency may abide by the terms of any such agreement and perform its obligations thereunder, and in so doing, it shall not be deemed to be in violation of the terms or conditions of any such grant or any trusts, restrictions or conditions appertaining thereto; provided, however, that nothing herein contained shall be construed to constitute either an affirmation or a disaffirmance of any such grant or, except to the extent hereinabove set forth, to affect in any way the rights, titles or interests created by any such grant.

G. Operations incident to the drilling, producing or operating of a well or wells on any portion of a unit area under a unit agreement approved by the Commission pursuant to Subsections B, C or D of this Section 6 shall be deemed, for

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the purposes of determining compliance with lease and other contractual obligations, the conduct of such operations on each separately-owned tract in the unit area by the several working interest owners thereof. That portion of the production allocated to each tract included in the unit area, when produced, shall be deemed for all purposes to have been produced from such tract by a well or wells drilled therein.

H. Any order issued pursuant to Subsections B, C or D of this Section 6 shall, from and after its effective date, be effective as to and be binding upon each person owning an interest in the unit area covered thereby or in the oil and gas produced therefrom or the proceeds thereof. Each such person shall have the right to enforce the provisions of the unit agreement, including but not limited to, the provisions for determining rates of production, whether or not such person expressly consented to the unit agreement.

SECTION 7. OPERATION UNDER COOPERATIVE AGREEMENT.

Any agreement for the cooperative management, development and operation of two or more tracts in the same field or in the same producing or prospective pool, or any agreement to prevent waste, shall be valid and binding upon those who consent thereto and may be filed with the Commission for approval under Section 8 of this Act.

SECTION 8. VALIDATION OF SPACING AND UNIT AGREEMENTS.

A. Any agreement for the pooling of all interests in a spacing unit, any unit agreement, any cooperative agreement, and any agreement for the prevention of waste may be presented to the Commission for approval and if in the judgment of the Commission such an agreement is reasonably necessary to prevent waste or increase the ultimate recovery of oil and gas, the Commission may approve thereof. No such agreement approved by the Commission hereunder or heretofore approved pursuant to applicable law prior to the enactment of this Act shall be held to violate any of the statutes of this State prohibiting monopolies or acts, arrangements, agreements, contracts, combinations or conspiracies in restraint of trade or commerce.

B. Any officer, commission, or other instrumentality of the State having the control and management of State land, and any officer, board, or other instrumentality of any county having the control and management of such county's land, and any officer, board, council, or other instrumentality of any city having the control and management of such city's land, and the proper officer or board or other instrumentality of any political, municipal, or other subdivision or agency of the State or of any county or of any city or of any district or of any public or quasi-public corporation, is hereby authorized, and shall have the power on behalf of the State or of such county or of such city or of such political, municipal, or other subdivision or agency or of such district or of such public or quasi-public corporation, with respect to land or to oil or gas rights subject to the control and management of such officer or commission or board or other instrumentality, respectively, to consent to or to become a party to and to participate in any unit agreement, any agreement for the pooling of all interests in a spacing unit, any cooperative agreement, or any agreement for the prevention of waste provided for in this Act.

SECTION 9. LIENS.

A person to whom another is indebted for expenses incurred in drilling or operating a well on a spacing unit formed by pooling as provided for in Section 5, or by virtue of expenses incurred in carrying on unit operations as provided for in Section 6, may, in order to secure payment of the amount due, fix a lien upon the interest of the debtor in the production as and when produced from the spacing unit or the unit area, as the case may be, by filing for record, with the recorder of the county where the property or a portion thereof involved is located, an affidavit setting forth (1) in general terms the kind of materials, tools, equipment, or supplies furnished or labor or services performed, and (2) a description of the land involved, the name of the debtor and his interest in the production from the spacing unit or the unit area, and (3) the amount which is still due and unpaid, and (4) a statement that at least twenty days prior to the date of the affidavit such person gave written notice to the debtor by registered mail at his last known address, setting forth the information required under Subdivisions (1), (2) and (3) above. Any such affidavit shall be filed for record not later than ninety days after the delivery of the property or the completion of the labor. The lien shall be a first lien on the production and otherwise shall be of the same nature and subject to foreclosure in the same manner and within the same time as mechanics' liens. In any case where the lien claimant is in possession of the production which is subject to the lien, the Commission may authorize the lien claimant to sell such production or so much thereof as may be necessary to satisfy said lien, provided that the Commission shall hold or arrange for the holding of the proceeds of such sale for appropriate distribution upon a determination of the controversy.

SECTION 10. RULES AND REGULATIONS.

A. The Commission shall promulgate and enforce rules, regulations, and orders to effectuate the purposes and the intent of this Act, and shall prescribe rules and regulations governing the practice and procedure before the Commission.

B. No rule, regulation, or order, or amendment thereof, except in an emergency, shall be made by the Commission without a public hearing upon at least ten days' notice given in such manner and form as may be prescribed by the Commission. The public hearing shall be held at such time and place as may be designated by the Commission, and any interested person shall be entitled to be heard in accordance with the Commission's rules and regulations.

C. When an emergency requiring immediate action is found to exist, the Commission is authorized to issue an emergency order without notice or hearing, which shall be effective upon promulgation. No emergency order shall remain effective for more than fifteen days.

D. Any notice, order or decision required by this Act to be served upon any person either before, during, or after the institution of any proceeding before the Commission, may be served in the manner provided by Chapter V, Title XIV, Part II, of the Code of Civil Procedure, unless otherwise directed by the Commission in a manner permitted by law. In the latter event, the document shall be served in accordance with the order or direction of the Commission. The Commission, in cases where the Code of Civil Procedure, as it may be amended from time to time, permits service by publication, may cause service to be made by publication under this Act of time and place of hearing in a newspaper or trade publication designated by the Commission as most likely to give notice to the persons to be served, and for such length of time as may be deemed reasonable by the Commission.

E. All rules, regulations, and orders issued by the Commission shall be in writing, shall be entered in full and indexed in books to be kept by the Commission for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of any rule, regulation, or order certified by any member of the Commission, or its Secretary, under its seal, shall be received as evidence in all courts of this State with the same effect as the original.

F. The Commission may act upon its own motion, or upon the application of any interested person. On the filing of an application concerning any matter within the jurisdiction of the Commission, the Commission shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The Commission shall enter its order within thirty days after the hearing.

SECTION 11. TESTIMONY AND CONTEMPTS TO ENFORCE.

A. The Commission shall have the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it. No person shall be

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excused from attending and testifying, or from producing books, papers, and records before the Commission or a court, or from obedience to the subpoena of the Commission or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; provided that nothing herein contained shall be construed as requiring any person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before such Commission or court for determination. No natural person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his objection that it may incriminate him, he may be required to testify or produce evidence, documentary or otherwise, before the Commission or court, or in obedience to its subpoena, provided that no person testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

B. In case of failure or refusal on the part of any person to comply with the subpoena issued by the Commission, or in case of the refusal of any witness to testify as to any matter regarding which he may be interrogated, any court of record in the State, upon application of the Commission, may issue an attachment for such person and compel him to comply with such subpoena, and to attend before the Commission and produce such records, books and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

SECTION 12. PENAL OFFENSES.

It shall be unlawful and punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment, for any person to willfully—

- (1) violate any order of the Commission; or
- (2) commence operations for the drilling, deepening, plugging or abandonment of a well for the production of oil or gas without first giving to the Commission notice thereof under such rules and regulations as may be prescribed by the Commission; or
- (3) make or cause to be made, for the purpose of evading this Act, or any rule, regulation or order of the Commission, any false entry or statement in a report required by this Act or by any rule, regulation or order of the Commission, or to make or cause to be made any false entry in any record, account, or memorandum, required by this Act, or by any such rule, regulation, or order, or to omit, or cause to be omitted, from any such record, account or memorandum, full, true, and correct entries as required by this Act, or by any such rule, regulation, or order, or to remove from this State or destroy, mutilate, alter, or falsify, any such record, account, or memorandum.

SECTION 13. PENALTIES.

A. Any person who willfully violates any provision of this Act, or any rule, regulation, or order of the Commission shall also be subject to a penalty of not more than One Thousand Dollars (\$1,000.00) for each act of violation and for each day that such violation continues.

B. The penalties provided in this Section shall be recoverable by suit filed by the Attorney General in the name and on behalf of the Commission in the superior court of the State of California for the county in which the defendant resides or in which any defendant resides, if there be more than one defendant, or in the superior court of any county in which the violation occurred. The payment of any such penalty shall not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of such violation or from the punishment provided in Section 12.

SECTION 14. AIDERS AND ABETTORS.

Any person knowingly aiding or abetting any other person in the violation of any provision of this Act, or any rule, regulation or order of the Commission shall be subject to the same punishment and penalty as that prescribed by this Act for the violation by such other person.

SECTION 15. CIVIL SUITS.

A. Whenever it appears that any person is violating or threatening to violate any provision of this Act, or any rule, regulation or order of the Commission, the Commission may bring suit against such person in the superior court of any county where the violation occurs or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. Upon the filing of any such suit, summons issued to such person may be directed to the sheriff of any county in this State for service by such sheriff or his deputies. In any such suit, the court shall have jurisdiction to grant to the Commission, without bond or other undertaking, such prohibitory and mandatory injunctions either preliminary or final as the facts may warrant.

B. If the Commission shall fail to bring suit to enjoin a violation or threatened violation of any provision of this Act, or any rule, regulation or order of the Commission within ten days after receipt of written request to do so by any person who is or will be adversely affected by such violation, the person making such request may bring suit in his own behalf to restrain such violation or threatened violation in any court in which the Commission might have brought suit. If in such suit, the court should hold that injunctive relief should be granted, then the Commission shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the Commission had at all times been the plaintiff.

C. No civil action for damages shall lie against any person for the violation of this Act or any rule, regulation or order of the Commission, except against an owner of the working interest as defined in Subsection M of Section 2 hereof, and particularly no such suit or action shall lie against any lessor, royalty owner, contractor or purchaser of the oil and gas, and no such suit or action shall lie against an owner of the working interest as defined in Subsection M of Section 2 hereof, except suits or actions for damages occurring subsequent to the entry of an order or decision of the Commission which result from a failure to comply with such order or decision.

D. If the Commission brings a suit or action pursuant to this Act, no defendant or intervenor therein shall be permitted to cross-complain or otherwise bring an action in the same proceeding against any other person for damages or for any other purpose.

SECTION 16. PROCEDURE FOR APPEAL AND ACTIONS AGAINST THE COMMISSION.

A. Within 20 days after written notice of the entry of any order or decision of the Commission, or such further time as the Commission may grant for good cause shown, any person affected thereby may file with the Commission an application for a rehearing in respect of any matter determined by such order or decision, setting forth the respect in which such order or decision is believed to be erroneous. The Commission shall grant or refuse any such application in whole or in part within 10 days after the same is filed, and failure to act thereon within such period shall be deemed a refusal thereof and a final disposition of such application. In the event the rehearing is granted, the Commission may enter such new order or decision after rehearing as may be required under the circumstances.

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B. Any party to such rehearing proceeding who is dissatisfied with the disposition of the application for rehearing, may petition to the superior court of the county wherein is located any property affected by the decision of the Commission for the review of the action of the Commission within 20 days after the entry of the order following rehearing or after the refusal of rehearing, as the case may be. Such petition shall state briefly the nature of the proceedings before the Commission and shall set forth the order or decision of the Commission complained of and the grounds of invalidity thereof upon which the petitioner will rely. Notice of such petition shall be served upon the adverse party or parties and the Commission in the manner provided for the service of summons in civil proceedings. The trial on the petition shall be without a jury, and the transcript of proceedings before the Commission, including the evidence taken in hearings by the Commission, shall be received in evidence by the court in whole or in part upon offer by either party, subject to legal objections to evidence, in the same manner as if such evidence was originally offered in the superior court. The court shall determine the issues of fact and of law and shall, according to the law applicable thereto and upon the evidence from the transcript introduced before the court, and such additional newly discovered evidence as may be received by the court which could not have been produced at the hearing before the Commission by the exercise of reasonable diligence, or was improperly excluded at the hearing, enter judgment commanding the Commission to set aside or modify its order or decision, or denying the petition. Appeals may be taken from judgments or decisions of the superior courts to the District Court of Appeal or to the Supreme Court, as the case may be, in the same manner as provided for appeals from any other final judgment entered by a superior court in this State. Each superior court shall, in so far as is practicable, give precedence to petitions involving orders of the Commission; the District Courts of Appeal shall, in so far as is practicable, give precedence to appeals from orders, judgments and decisions of the superior courts or to petitions for any writ in proceedings arising under this Act; and the Supreme Court shall, in so far as is practicable, give precedence to appeals or petitions for any writ in proceedings arising under this Act.

C. The pendency of petitions before the superior court or proceedings upon appeal shall not of itself stay or suspend operation of the order or decision being reviewed, but during the pendency of such proceedings, the superior or other court in its discretion may, upon its own motion or upon proper application of any party thereto, stay or suspend, in whole or in part, operation of the order or decision pending review thereof, on such terms as the court deems just and proper and in accordance with the Code of Civil Procedure; provided that the court, as a condition to any such staying or suspension of operation of any order or decision, may require that one or more parties secure, by bond, in such form and amount as the court may deem just and proper, one or more other parties against loss or damage due to the staying or suspension of the Commission's order or decision, in the event that the action of the Commission shall be affirmed.

D. No temporary restraining order or preliminary injunction or writ of any kind shall be granted against the Commission and its members or against the Attorney General, or against any agent, employee, or representative of the Commission, restraining the Commission and its members, or any of its agents, employees, or representatives, or the Attorney General, from enforcing any law of this State relating to conservation of oil and gas, or any of the provisions of this Act, or any rule, regulation or order made thereunder, except after due notice to the Commission, and to all other real parties in interest, and after a hearing at which it shall be shown to the court by substantial evidence that the act done or threatened is probably without sanction of law or that the provisions of this Act, or the rule, regulation, or order complained of, is probably invalid or unreasonable, and that, if enforced against the complaining party, will probably cause an irreparable injury. With respect to any order, decree or writ granting temporary injunctive relief, the nature and extent of the probable invalidity of the law, or of any provision of this Act, or of a rule, regulation or order thereunder involved in such suit, must be recited in the order, decree or writ granting the temporary relief, as well as a clear statement of the probable damage relied upon by the court as justifying temporary injunctive relief.

E. No temporary restraining order or preliminary injunction or writ of any kind against the Commission and its members, or its agents, employees, or representatives, or the Attorney General, shall become effective until the plaintiff shall execute a bond in such amount and upon such conditions as the court may direct. The bond shall be made payable to the clerk of the court, shall be approved by the court, and shall be for the use and benefit of all persons who may be injured by the acts done under the protection of the writ or injunction. All persons claiming injury under any bond provided for by this Subsection or by Subsection C hereof must bring suit in the superior court of the county where the injury is claimed to have occurred within six (6) months after the date of the final determination of the validity, in whole or in part, of the rule, regulation, or order, the enforcement of which was enjoined, or the appeal from which was sought or had; otherwise recovery of such persons under the terms of such bonds shall be barred and denied.

F. Promptly after the final determination of the validity, in whole or in part, of the law, rule, regulation or order complained of, the Commission shall call a hearing for the purpose of determining what regulation should be made with respect to the wells and properties of the persons securing the writ, decree or stay upon appeal, in order to offset any advantage obtained as a result thereof, and the Commission is specifically authorized to shut in or reduce the production from such wells or properties for such period as may be necessary to offset any production obtained while the writ, decree or stay upon appeal was in force, which is in excess of the permitted production which was applicable to such wells and properties. With respect to suits based on the bonds provided for in this Section, the superior court shall take into account the action of the Commission, as authorized by this Subsection, on determining liability, if any, under the bonds.

G. The applicable rules of practice and procedure in civil cases for the courts of this State shall govern civil proceedings concerning this Act, unless they are inconsistent with the provisions hereof.

H. The provisions of Chapters 4 and 5 of Part 1, Division 3, Title 2, of the Government Code shall not apply to this Act, or to any rule, regulation, or order issued thereunder.

SECTION 17. ASSESSMENT AND COLLECTION OF CHARGES FOR COSTS OF ADMINISTRATION.

A. For the purposes of paying all expenses of the Commission and all expenses of the administration of this Act, there shall annually be imposed upon the person operating each oil or gas well in this State, and upon the persons owning royalty or other interests in respect to the production from such well, a charge which shall be payable to the State Treasurer and which shall be computed at a uniform rate based upon production from such well for the preceding calendar year. The charge shall be apportioned among all such persons in fractional amounts proportionate to their respective fractional interests in respect to the production of such well, but the whole of such charge shall be payable by the operator, who shall withhold their respective proportionate shares of such charge from the amounts otherwise payable or deliverable to such owners of royalty or other interests. Every operator of oil or gas wells in this State shall, on or before the first Monday in March of each year after the effective date of this Act, render a verified report to the Commission on such forms as the Commission may prescribe, stating the production in this State of oil in barrels produced by him and of gas in thousands of cubic feet which were marketed by him during the preceding calendar year from wells operated by him. If any such person fails or refuses to file such a report within the time prescribed, the Commission shall make an estimate of the oil and gas production to be assessed to any such person, which estimate shall bind such person for the purposes of this Section.

B. On or before the first Monday in March of the first year after the effective date hereof, each operator shall pay to the State Treasurer a charge computed at the rate of \$.002 for each and every barrel of oil produced and each and every 10,000 cubic feet of gas marketed from wells operated by him during the preceding calendar year, less, however, any sums theretofore paid by such operator into the former Petroleum and Gas Fund on or after the first Monday in July immediately preceding the adoption of this Act in payment of his assessment for such year. If not paid before six o'clock P.M. on

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the first Monday of March, fifteen per cent of the assessment shall be added to the amount thereof. Unless paid prior to six o'clock P.M. on the first Monday in July, an additional five per cent of the assessment shall be added to the amount thereof.

C. All monies collected under the provisions of this Section shall be remitted to the State Treasurer, and by him shall be credited to a special fund known as the Oil and Gas Conservation Fund, which fund is hereby created. All monies credited to that fund shall be expended for the purposes of paying all expenses of the Commission and all expenses of administering this Act. No such monies shall revert to the general fund at the end of any fiscal period, but shall remain in the Oil and Gas Conservation Fund to cover future operating expenses of the Commission. All monies hereby appropriated shall be expended under the direction of the Commission in accordance with the laws of this State relating to the expenditure of appropriations, and warrants shall be drawn against said appropriations as now provided by law.

D. All monies in the present Petroleum and Gas Fund are hereby appropriated to the Commission, and, in the event that they are not sufficient to pay the expenses incidental to the establishment of the Commission, funds shall be provided by direct legislative appropriation from the general fund.

E. On or before the first Monday of March of each year after the effective date hereof, the Commission shall, in conjunction with the Department of Finance, make an estimate of the amount of money which will be required to pay all the expenses of the Commission and of administering this Act for the ensuing fiscal year. The amount of the estimate shall not exceed the amount of money necessary for the foregoing expenses during the ensuing fiscal year less the amount estimated to remain in the Oil and Gas Conservation Fund at the end of the current fiscal year, plus a reserve fund of one hundred thousand dollars (\$100,000.00).

F. On or before the third Monday before the first Monday in July of each year, the Commission shall determine the rate per barrel of oil produced and per 10,000 cubic feet of gas marketed during the preceding calendar year which will produce the sum necessary to be raised as provided in Subsection E hereof, and shall assess and levy the charges as provided in this Section. The assessments shall be made against the person operating the property subject to assessment on the first Monday in March, except that, where the actual operation of any well has changed hands during the period for which the charge is imposed, the charge shall be apportioned to each operator upon the basis of the oil or gas produced during the period. If the name of the operator is unknown to the Commission, the assessment may be made against the owners, or if some owners are not known to the Commission, then against unknown owners. Clerical errors occurring or appearing in the name of any person or otherwise in connection with the assessment which do not affect the substantial rights of the payer, shall not invalidate the assessment or charge.

G. The Chairman of the Commission, the Director of Finance, and the Chairman of the State Board of Equalization shall constitute a board of review, correction, and equalization, and shall have all the powers and perform such duties as usually devolve upon a county board of equalization. The Chairman of the Commission shall act as secretary of the board, and keep accurate minutes of its proceedings. The board of review, correction, and equalization shall meet at the State Capitol on the third Monday before the first Monday in July of each year, and remain in session from day to day until the first Monday in July for the purpose of carrying out the provisions of this Section. The board may, at any time before the first Monday in July, correct any record and may increase or decrease any assessment or charge, if in its judgment the evidence warrants such action. The board shall give such publicity and publish such notices regarding the charges and its hearings as it shall deem appropriate, but omission to publish or otherwise give notice shall not affect the validity of any assessment levied pursuant to this Section.

H. The Commission shall prepare each year a record called the "Record of Assessments and Charges for the Oil and Gas Conservation Fund" in which shall be entered each assessment and levy or charge made by it upon the property assessed and charged under this Section in such form as the Commission may prescribe. On the first Monday in July, the Commission shall deliver to the State Controller the record of assessments and charges for the Oil and Gas Conservation Fund, certified to by the Chairman of the Commission. Any errors may be corrected by the Controller, with the consent of the Department of Finance.

I. The charges levied and assessed under Subsections F and G hereof shall be due and payable on the first Monday in July in each year. One-half thereof shall be delinquent at six o'clock P.M. on the sixth Monday after the first Monday in July, and, unless paid prior thereto, fifteen per cent shall be added to the amount thereof. Unless paid prior to six o'clock P.M. on the first Monday in February next thereafter, an additional five per cent shall be added to the amount thereof.

The remaining one-half of the charges shall be delinquent at six o'clock P.M. on the first Monday in February next succeeding the day upon which they become due and payable. If not paid prior thereto, five per cent shall be added to the amount thereof.

J. The assessments and charges levied under this Section shall be a lien upon the land from which such oil or gas has been extracted, and all production therefrom. The lien shall attach on the first Monday in March of each year.

The lien may be enforced and the charges collected by an action by the State Controller as provided in this Subsection.

When an assessment shall have been levied, but shall not have been paid prior to the first Monday in February following such levy, if the certificate of delinquency is to be recorded as hereinafter provided, the Controller shall, within twenty-five (25) days thereafter, mail a notice to the owner of the land at his last known address as it appears in the office of the County Assessor for the county in which the land is situated, or if no address appears in the office of the County Assessor, then to the last address of the owner of the land as last shown on the records of said County Assessor. The notice shall contain a statement of the amount of the assessment, the date upon which the assessment was levied, the fact that the records of the Controller show the assessment to be unpaid, and shall declare that unless the assessment is paid before the first Monday of March following, the lien provided for in this Section will attach.

When any person assessed shall be delinquent in the payment of the charges, interest or penalties as herein provided, the Controller may, on or before the thirtieth day of May next following the delinquency, file a certificate with the county recorder of the county in which the oil or gas was extracted, specifying the amount of the charges, interest and penalty due, the name and address of the assessee liable for the same, as it appears from his records, the name and address of the assessed owner of the land from which the oil or gas was extracted, together with its description, as it appears on the records of the county tax collector in which the property is located, and specifying that there has been compliance with all the provisions of law in relation to the computation and assessment of the charges. Upon filing said certificate the amount of the lien as above provided is determined and shall have the same force, effect and priority as a judgment lien upon the land from which the oil or gas is extracted.

A warrant may be issued by the State Controller or his duly authorized representative for the collection of any charges, interest and penalty and for the enforcement of any lien directed to the sheriff or constable, and shall have the same effect as a writ of execution. It may and shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy upon and sale of real property pursuant to a writ of execution.

Notwithstanding any provisions of law to the contrary, the owner of said land may redeem from any execution sale within a period of three years upon payment of interest, penalties and charges as provided in the case of other sales of real property under execution.

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS

The sheriff or constable shall receive, upon the completion of his services pursuant to a warrant, and the Controller is authorized to pay to him the same fees and commissions and expenses in connection with services pursuant to said warrant as are provided by law for similar services pursuant to a writ of execution; provided, that fees for publication in a newspaper shall be subject to approval by the Controller rather than by the court; said fees, commissions and expenses shall be an obligation of the person or persons liable for the payment of said charges and may be collected from such person or persons by virtue of the warrant or in any other manner provided in this Section for the collection of such charges.

In the event that the lien of the charges, penalties or interest attaches to real property from which the oil or gas is extracted and more than one parcel of property is included within the lien, the Controller may release by certificate as hereinabove provided from the lien of said charges, interest, penalties and costs, upon payment by the owner of any parcel or parcels of property of his proportionate share of the assessment of the oil or gas extracted from all land included within said lien owned by him.

The Controller may at any time release all or any portion of the property subject to the lien from the lien or subordinate the lien to other liens if he determines that the charges are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of such charges. A certificate by the Controller to the effect that any property has been released from the lien herein provided for or that such lien has been subordinated to other liens shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

It is expressly provided that the remedies provided herein of the State shall be cumulative and that no action by the Controller shall be construed to be an election on the part of the State, or of any of its officers, to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this Section.

The Controller shall, on or before the thirtieth day of May next following the delinquency of any charge, bring an action in the name of the people of the State, in the county in which the property assessed is situated, to collect any delinquent charges or assessments, together with any penalties or costs, which have not been paid and which are shown as delinquent upon the record of assessments and charges for the Oil and Gas Conservation Fund. The Attorney General shall commence and prosecute any such action to final judgment. In such actions the record of assessment and charges for the Oil and Gas Conservation Fund, or a copy of so much thereof as is applicable, duly certified by the Controller, showing unpaid charges against any person assessed by the department is prima facie evidence of the assessment, the delinquency, the amount of charges, penalties, and costs due and unpaid, that the person is indebted to the people of the State of California in the amount of charges and penalties therein appearing unpaid, and that all forms of law in relation to the assessment of the charges have been complied with. The provisions of the Code of Civil Procedure relating to the service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

Any person claiming and protesting that the assessment made or charges assessed against him are void, in whole or in part, may bring an action against the State Treasurer for the recovery of the whole or any part of the charges, penalties, or costs paid on such assessment, upon the grounds stated in his protest. No action may be brought later than the third Monday in February next following the day upon which the charges were due, and unless the person has filed with the State Controller, at the time of payment of the charges, a written protest stating whether the whole assessment or charge is claimed to be void, or if a part only, what part, and the grounds upon which the claim is founded. When so paid under protest the payment shall not be regarded as voluntary. Failure to begin the action within the time specified is a bar to recovery of the charges. In any such action the court may render judgment for the plaintiff for any part or portion of the charge, penalties, or costs found to be void and paid by plaintiff upon the assessment.

Whenever an action is commenced as aforesaid, a copy of the complaint and of the summons shall be served upon the State Treasurer or his deputy and upon any Commissioner or a Deputy Commissioner and upon the Attorney General or his deputy. At the time the Treasurer demurs or answers, he may demand that the action be tried in the Superior Court of the County of Sacramento, which demand shall be granted. The Attorney General shall defend the action. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials, and appeals are applicable to these proceedings.

K. On or before the first day of October of each year, the Commission shall make public, for the benefit of all interested persons, an annual report in writing containing such information as the Commission deems advisable, which report shall include the total expenditures made by the Commission during the previous fiscal year, the net amount remaining in the Oil and Gas Conservation Fund available for expenses during the succeeding fiscal year, and the total amount delinquent and uncollected from any assessments or charges levied pursuant to this Section.

SECTION 18. REPEALS.

Section 508 of Division 1, all of Division 3 except Chapter 3 thereof, and Sections 6830, 6832 and 6833 of Division 6 of the Public Resources Code, and all laws or portions thereof which are in conflict with the provisions of this Act, are hereby repealed.

SECTION 19. AMENDMENTS.

A. Section 504 of the Public Resources Code is hereby amended to read as follows:

504. The work of the department shall be divided into at least three divisions, known as the Division of Forestry, the Division of Beaches and Parks and the Division of Mines.

B. Sections 3602.1, 3605, 3606, 3606.1 and 3608 of Chapter 3 of Division 3 of the Public Resources Code, which make reference to certain duties, rights and powers of the State Oil and Gas Supervisor are hereinafter amended to provide for the substitution of the California Oil and Gas Conservation Commission in the place of the State Oil and Gas Supervisor, which office is abolished by this Act, and to limit the applicability of said chapter to certain pools which have been heretofore discovered. Although no other changes in the provisions of Chapter 3 of Division 3 of the Public Resources Code are made by this Act, the Legislature may hereafter amend or repeal all or any part of said Chapter 3 of Division 3, as amended hereby. Until such time, the following sections of said Chapter 3 of Division 3 are amended to read as follows:

C. Section 3602.1 of said Chapter 3 is hereby amended to read as follows:

3602.1. Where a parcel of land contains one acre or more and the hydrocarbons to be developed are too heavy or viscous to produce by normal means, and the California Oil and Gas Conservation Commission so determines, the California Oil and Gas Conservation Commission may approve proposals to drill wells at whatever locations it deems advisable for the purpose of the proper development of such hydrocarbons by the application of pressure, heat or other means for the reduction of oil viscosity, and such wells shall not be classed as public nuisances after approval by the California Oil and Gas Conservation Commission.

D. Section 3605 of said Chapter 3 is hereby amended to read as follows:

3605. The provisions of this chapter do not apply to any field producing oil or gas on August 14, 1931, nor to any pool (as defined in Subsection E of Section 2 of the Oil and Gas Conservation Act) discovered after the effective date of the Oil and Gas Conservation Act, nor to any pool discovered prior to said effective date, but from which no well had prior thereto produced oil or gas in quantities sufficient to return drilling, completion and operating costs, plus a reasonable profit.

E. Section 3606 of said Chapter 3 is hereby amended to read as follows:

3606. Notwithstanding any other provisions of this chapter, where a parcel of land contains one acre or more and where all or substantially all of the surface of such parcel of land is unavailable for the surface location of oil or gas wells, there may be drilled or produced not more than one well into each acre of such parcel of land, and the surface location of such well may be located upon property which may or may not contain one acre or more of surface area, and the property upon the surface of which the surface location of such well may be located may or may not be contiguous to such parcel of land; provided:

1. No operator shall construct or maintain any derrick within 150 feet of any other derrick, then standing, of such operator.

2. The surface location of such well, as measured from the center of the hole, shall be not less than 25 feet from an outer boundary of the surface of the property upon which such well is located, and shall be not less than 25 feet from any dedicated public street, road or highway which is so dedicated and in such public use at the time of the commencement of drilling of such well.

3. The producing interval of such well shall be not less than 75 feet from an outer boundary of the parcel of land into which such producing interval is drilled, and the producing interval of such well shall be not less than 150 feet, as measured horizontally in the same zone, from the producing interval of any other well which is producing or capable of producing oil or gas.

To enforce the provisions of this section, the California Oil and Gas Conservation Commission may require, at the time it gives approval of notice of intention to drill, redrill or deepen, that a subsurface directional survey be made for such well, and that a plat of said directional survey be filed with the California Oil and Gas Conservation Commission within fifteen (15) days of completion, and such plat shall be open to inspection by any other operator in the field in which the well is located.

F. Section 3606.1 of said Chapter 3 is hereby amended to read as follows:

3606.1. The 150-foot restriction in Sections 3600 and elsewhere in this chapter shall apply only to wells drilled and producing from the same zone or pool; provided, however, that the well density shall not exceed one well per acre unless the California Oil and Gas Conservation Commission shall determine that more than one zone or pool underlies the property and that it is not practical to produce from all of such zones or pools from a single well per acre and that such other zones or pools are being drained by offset wells. In such cases only, a maximum density of two wells per acre may be approved. These exceptions to the general spacing rule shall apply also to properties qualifying under Sections 3602 and 3606.

G. Section 3608 of said Chapter 3 is hereby amended to read as follows:

3608. Where land aggregating less than one acre is surrounded by other lands, which other lands are subject to an oil and gas lease aggregating one acre or more, and if, under the provisions of Sections 3600 to 3607, inclusive, of the Public Resources Code, the drilling or producing of a well on said land is declared to be a public nuisance, said land shall, for oil and gas development purposes and to prevent waste and to protect the oil and gas rights of landowners, be deemed included in said oil and gas leasehold on said other lands when there is filed with the California Oil and Gas Conservation Commission a notice of intention to drill a well upon the said leasehold covering said other lands and the California Oil and Gas Conservation Commission has caused to be recorded with the county recorder of the county in which said land aggregating less than one acre is located a declaration as hereinafter provided.

There shall be attached to such notice of intention a statement which shall set forth the name or names of the record owner or record owners of said land aggregating less than one acre which is to be included in said oil and gas leasehold on said other lands, the legal description of said land aggregating less than one acre, name of the lessee of the oil and gas lease in which such land is to be included, and a reference to the book and page of the official records of the county recorder where such oil and gas lease is recorded or a reference to the document number and date of recordation of such oil and gas lease. The California Oil and Gas Conservation Commission, upon receipt of such notice of intention and attached statement shall, within 10 days thereafter cause to be recorded with the county recorder of the county in which said land aggregating less than one acre is located, a declaration, signed by the Secretary of the Commission, that said land is deemed by the provisions of this section to be included in said oil and gas leasehold on said other lands. Such declaration shall set forth the same information required to be set forth in the statement attached to the notice of intention. The county recorder shall accept such declaration for recordation and shall index such declaration in the names of all persons or corporations mentioned therein. From the time of recording thereof in the office of the county recorder such notice shall impart constructive notice of the contents thereof to all persons dealing with the land therein described.

The owners of the oil and gas mineral rights in said land so deemed included in said oil and gas leasehold on said other lands, as herein provided, shall thereafter receive in money, based upon the production of oil and gas from said leasehold including said land, a pro rata share of the landowners' royalty determined in accordance with the provisions of said oil and gas lease in the proportion that the area of said land bears to the aggregate of the total area covered by said oil and gas lease including the area of said land; provided further, that said owners of said oil and gas mineral rights in said land shall in no case receive less than their pro rata share determined, as herein provided, of the value of one-eighth part of the oil and gas produced, saved and sold from the operating unit comprising said leasehold on said other lands and said land, computed in accordance with the provisions of said oil and gas lease with respect to the computation of landowners' royalty; and provided further, that without the consent of said owners of said land the lessee or operator of said oil and gas leasehold shall have no right to use the surface of said land nor to use the subsurface thereof down to a depth of 200 feet below the surface thereof.

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS

Where said land aggregating less than one acre is surrounded by lands which are not subject to a single oil and gas leasehold but is surrounded by lands which are subject to two or more separate oil and gas leaseholds, one or more of which oil or gas leaseholds aggregates one acre or more, then in such event the said land aggregating less than one acre shall, as herein provided, be included within and be joined to that oil and gas leasehold aggregating one acre or more as to which said parcel of land aggregating less than one acre has the longest common boundary.

In determining the contiguity of any parcels of land for the purposes hereof, no road, street or alley shall be deemed to interrupt such contiguity.

SECTION 20. FURTHER AMENDMENTS.

The following provisions of this Act may be amended by the Legislature in its discretion:

Subsections C and D of Section 4;

Section 9;

Section 12;

Section 14;

Subsection B of Section 15;

Section 19;

Those portions of Subsection A of Section 3 hereof, and of Subsection G of Section 5 expressly permitting amendments by the Legislature.

The power to amend or repeal any other provisions of this Act is reserved to the People by a vote of the electors.

SECTION 21. NAME OF ACT.

This Act shall be called the Oil and Gas Conservation Act.

SECTION 22. CONSTITUTIONALITY.

If any section, subsection, sentence or clause of this Act is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portion of this Act. It is hereby declared that this Act would have been passed, and each division, section, subsection, sentence or clause thereof, irrespective of the fact that any one or more sections, subsections, sentences or clauses might be adjudged to be unconstitutional, or for any other reason invalid.

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